

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

MICHAEL JEROME IRBY, JR.,	)	
	)	CIVIL ACTION NO. 2:21-cv-741
Plaintiff,	)	
	)	JUDGE KIM R. GIBSON
v.	)	
	)	
JOHN WETZEL, <i>et al.</i> ,	)	
	)	
	)	
Defendants.	)	

**MEMORANDUM ORDER**

This case was referred to Magistrate Judge Keith A. Pesto for proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636, and Local Civil Rule 72. The Magistrate Judge filed a Report and Recommendation on November 3, 2021, recommending Michael Jerome Irby's ("Irby") Petition be dismissed without prejudice as unexhausted and that no certificate of appealability be issued. (ECF No. 21).

Irby was notified that, pursuant to 28 U.S.C. § 636(b)(1), he had fourteen days to file written objections to the Report and Recommendation. Irby filed objections to the Report and Recommendation on November 18, 2021 and November 19, 2021. (ECF Nos. 24, 25).

After *de novo* review of the record in this matter, the Report and Recommendation, and the objections thereto, the Court finds that the objections filed by Irby at ECF Nos. 24 and 25 are without merit. The following order is entered:

AND NOW, this 28<sup>th</sup> day of December, 2021, IT IS HEREBY ORDERED that the Petition (ECF No. 8) is dismissed without prejudice as stated in the Report and Recommendation.

**IT IS FURTHER ORDERED** that no certificate of appealability is issued. The Court adopts the Report and Recommendation as the opinion of this Court.

**BY THE COURT:**



**KIM R. GIBSON**  
**UNITED STATES DISTRICT JUDGE**

Notice by U.S. Mail to:

Michael Jerome Irby, Jr.  
1703743  
Blair County Prison  
419 Market Square Alley  
Hollidaysburg, PA 16648